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Paper No. 15

In re Application of
Bernd Schulze
Application No. 09/507,453
Filed: February 22, 2000
Attorney Docket No. RUM213R1

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: DECISION ON PETITION
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This is a decision on the petition filed by facsimile transmission on September 6, 2003 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to timely file the issue fee. The petition is being treated pursuant to 37 CFR 1.181, and no fee is required.

The petition is dismissed.

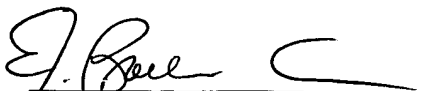
Petitioner alleges that the issue fee was in fact timely paid. Petitioner supports this allegation by furnishing a copy of a transmittal letter for a supplemental declaration and the authorization of payment of the issue fee. The fee authorization has affixed thereto a 37 CFR 1.8(a) certificate of mailing dated April 30, 2003. Petitioner has also furnished a copy of a post card receipt for the transmittal letter which shows that it was received in the Office on April 30, 2003.

However, petitioner's fee authorization was without effect. The fee authorization authorizes the Office to charge Deposit Account No. 11-0224 "any fees under 35 U.S.C. 1.16, and 1.17, after a mailing of a Notice of Allowance under 35 USC 1.18, or any additional fees which may be required during the entire pendency of this application ..." However, there are no fees that are due under any of 35 U.S.C. § 1.6, 35 U.S.C. § 17 or 35 U.S.C. § 1.8 because there are, in fact, no such sections of Title 35 of the United States Code. The issue fee is authorized by 35 U.S.C. § 151 and the amount of this fee is in fact set by 37 CFR 1.18. Moreover, the fee authorization affixed to the transmittal letter does not specifically authorize the Office to charge the issue fee, but instead merely authorizes the Office to charge nonexistent fees in accordance with nonexistent Sections of Title 35 of the United States Code.

Because there is no evidence that the issue fee was timely paid, and because the evidence submitted by petitioner does not show that petitioner ever authorized the Office to charge the issue fee or to charge any fees under 37 CFR 1.18, there is no basis for withdrawing the holding of abandonment.

Petitioner is entitled to file a renewed petition, without fee, introducing any additional evidence that would establish the timely payment of the issue fee. The renewed petition must be filed within two months of the date of this Decision. 37 CFR 1.181(f). This application is being retained in Technology Center 3700 pending the filing of a renewed petition, or other appropriate action by petitioner.

PETITION DISMISSED.


E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

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